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DECLARATIONS OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

WATERFORD

BOOK

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THIS DECLARATION, made on this 20 day of JUNE, 1985, by The Estridge Group, Inc., an Indiana corporation (hereinafter referred to as "Declarant"),

WITNESSETH:

WHEREAS, Declarant is the owner of certain real estate located in Hamilton County, Indiana, which is more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof (hereinafter referred to as "Property");

WHEREAS, Declarant desires to subdivide and develop the Property as generally shown on the Secondary Plat for Waterford (hereinafter referred to as the "Plat"), by designating certain portions of the Property as "Common Area and Restricted Common Area" (as hereinafter defined) and by designating certain other portions of the Property as Lots (as hereinafter defined);

NOW, THEREFORE, Declarant hereby declares that all of the Property shall be held, sold and conveyed subject to the following easements, restrictions, limitations, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and be binding on all parties having any right, title or interest in the Property or any part hereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

NAME

This Instrument Recorded July 2 1985
Mary L. Clark, Recorder, Hamilton County, Ind.

The subdivision of the Property created by this Declaration shall be known and designated as Waterford, a subdivision located in Hamilton County, Indiana.

ARTICLE II

DEFINITIONS

Section 2.1. "Association" means Waterford Homeowner's Association, Inc., an Indiana not-for-profit corporation, its successors and assigns.

RECEIVED
MAY 15 1985
CLERK OF SUPERIOR COURT
HAMILTON COUNTY, INDIANA

Section 2.2. "Articles" means the Articles of Incorporation of the Association filed with the Office of the Secretary of State of Indiana, as the same are or hereafter may be amended from time to time.

Section 2.3. "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but otherwise excluding those having such interest merely as security for the performance of any obligation. Unless specifically indicated to the contrary, the term Owner as used herein shall include the Declarant, so long as the Declarant shall own any Lot.

Section 2.4. "Property" means the real estate described in Exhibit "A".

Section 2.5. "Plat" means the subdivision plat of the Property identified as Secondary Plat of Waterford recorded in the Office of the Recorder of Hamilton County, Indiana, as the same may be hereafter amended or supplemented.

Section 2.6. "Lot" means any parcel of land shown upon the Secondary Plat of Waterford and identified as a Lot.

Section 2.7. "Declarant" mean The Estridge Group, Inc., an Indiana corporation, its successors and assigns as a Declarant.

Section 2.8. "Board of Directors" means the Board of Directors of the Association.

Section 2.9. "Common Area" means those portions of the Property (including improvements thereto), facilities and personal property owned or leased by the Association from time to time for the common use, benefit and enjoyment of its members. Unless expressly stated to the contrary, the term Common Area as used herein (whether or not so expressed) shall include all private streets and all portions of the Property so designated as Common Area on the Secondary Plat of Waterford. The Common Area is to be owned by the Association at the time of conveyance of the first Lot to an Owner.

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Section 2.10. "Development Period" means the period of time commencing with Declarant's acquisition of the Property and ending when Declarant has completed the development and sale of, and no longer owns, any Lot or any other portion of the real estate described in Exhibit A.

Section 2.11. "Restricted Maintenance Easement" means the portion of a Lot so designated on the Plat as Restrictive Maintenance Easement and reserved for the limited benefit of an adjacent Lot and its owner.

Section 2.12. "Restricted Common Area" means those portions of the Property so designated as Restricted Common Area on the Secondary Plat of Waterford, which Restricted Common Area shall be owned by the Association at the time of the conveyance of the first Lot to an Owner.

ARTICLE III

PROPERTY RIGHTS

Section 3.1. Owners' Easements of Enjoyment of Common Area.

Every Owner shall have a non-exclusive right and easement of enjoyment, in common with all Owners, in and to the Common Area, which shall be appurtenant to and shall pass with title to every Lot in the form of a right to membership in the Association, subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and other fees for the use of any facilities, if any, situated upon the Common Area;
- (b) the right of the Association to suspend the voting rights and right to use of any facilities by any Owner for any period during which any assessment remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- (c) the right of the Association to promulgate reasonable rules and regulations governing the use of the Common Area including, without limitation, restrictions on the use of and quality, kind and nature of any improvements, additions, or alterations to any and all landscaping areas, and other provisions of the Property included in the Common Area;
- (d) the rights of Declarant as provided in this Declaration;
- (e) all other rights, obligations and duties as set forth in this Declaration, as the same may be from time to time amended or supplemented;

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- (f) the easements reserved elsewhere in this Declaration and the right of the Association to grant further reasonable utility easements across and through the Common Area for the benefit of its members; and
- (g) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be set forth in the instrument of dedication or transfer, upon the approval of two-thirds (2/3) of the membership of each class of members of the Association.

Section 3.2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws and any reasonable and nondiscriminatory rules and regulations promulgated from time to time by the Association and subject to the rights of others as set forth in Section 3.1, his or her right of enjoyment of the Common Area to family members, to a lessee, or contract purchaser of his Lot or to guests.

Section 3.3. Certain Obligations and Access Rights to the Common Area. (a) The Association, subject to the rights of the Owners as set forth in this Declaration, shall be responsible for the management and control, for the exclusive benefit of the Owners as provided herein, of the Common Area and the Restricted Common Area, and for the maintenance of the same in good, clean, attractive, safe and sanitary condition, order and repair.

(b) The Association shall have and is hereby granted an easement and right of access to all of the Common Area and Restricted Area for the purpose of maintaining or repairing or causing the same to be maintained or repaired as is its obligation and duty under this Declaration. The easements and rights specified herein also are reserved for the benefit of Declarant so long as Declarant owns any portion of the Property.

Section 3.4. Drainage, Utility, Sewer and Other Development Easements. (a) Declarant reserves unto itself during the Development Period, and thereafter unto the Association, an undefined easement ("Drainage, Utility and Sewer Easement") for drainage, utility and sewer purposes in, on and over all of the Common Area and the Restricted Common Area, so as to permit

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Declarant to properly install and allow to be maintained all electrical, telephone, water, gas, sanitary and storm sewer, television (including but not limited to cable) transmission facilities, security systems and other utility services, antennae and other equipment and facilities to serve the Lot and the single family residential dwelling to be constructed on each Lot. No improvements or permanent structure (except walkways, pathways, fences, signs, lighting, landscaping and pavement on streets and driveways) shall be placed within any Drainage, Utility and Sewer Easement, and any fences so installed are subject to the rights (including the right to remove where reasonably necessary without duty of replacement, or reimbursement) of any public or private utility to construct, maintain, repair, or remove any necessary facilities and the rights of Declarant and the Association to provide for and maintain appropriate drainage.

(b) Declarant reserves unto itself during the Development Period, and thereafter unto the Association, the right and an undefined easement ("Sign and Facilities Easement") to install, erect, construct and maintain an entrance sign or signs, directional signs, lighting, walkways, pathways, fences, walls, and any other landscaping, architectural and recreational features or facilities considered necessary, appropriate, useful or convenient, anywhere upon the Property (except upon any Lot after the first conveyance thereof). Any signs shall comply with any applicable zoning requirements and all such facilities shall be maintained by the Association as a part of its Common Area and Restricted Common Area.

(c) Declarant reserves unto itself during the Development Period and thereafter unto the Association, the full right, title, and authority (i) to relocate, alter or otherwise change the location of any Drainage, Utility and Sewer Easement, the Sign and Facilities Easement, or any facility at any time located therein or thereon; (ii) to grant such further easements, licenses and rights of way, temporary or permanent, exclusive or

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non-exclusive, surface or otherwise, as Declarant may deem necessary or appropriate, for ingress, egress, utility and similar purposes on or within any Lot or any other portion of the Property, for the benefit of any Lot; and (iii) to describe more specifically or to change the description of any Drainage, Utility and Sewer Easement, the Sign and Facilities Easement or any other easement, license or right of way now or hereafter existing on the Property, by written instrument, amended Plat or amendment to the Plat recorded in the Office of the Recorder of Hamilton County, Indiana.

(2) The title of the Association (as to the Common Area during the Development Period) and of any Owner of any Lot shall be subject to the rights and easements reserved herein. Provided, however, that the rights reserved in this Section 3.4 shall not be exercised after the conveyance of any Lot in a manner that unreasonably and adversely affects any single family residential dwelling or portion thereof located upon such Lot or the Owner's use or enjoyment thereof, or which unreasonably restricts the rights of ingress and egress to such Lot. The rights and easements reserved by Declarant in this Section 3.4 shall run with the land, and Declarant's right to further alter or grant easements shall automatically terminate and pass to the Association one (1) year after Declarant shall have conveyed the last Lot within the Property.

Section 3.5. Easement for Emergency Purposes and Maintenance. An easement is hereby dedicated and granted for use in the case of an emergency by emergency vehicles such as fire trucks, police cars and ambulances and emergency personnel, public and private, over and upon the Common Area and Restricted Common Area, the streets and all pedestrian walkways or pathways. All public and private utility companies, providing services to the property and the Owners, are granted the right to enter upon the Common Area, the Restricted Common Area, and the utility and drainage easements designated on the Plat for the purpose of inspection, maintenance and repair of their respective utility

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facilities.

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Section 3.6. Encroachments and Easements for Buildings.

If, by reason of the location, construction, settling or shifting of a Building, any part of a Building comprising the single-family residence appurtenant to a Lot (hereinafter in this Section 3.6 referred to as the "Encroaching Unit") now encroaches or shall hereafter encroach upon any minor portion of any other adjacent Lot any Common Area or any Restricted Common Area, then in such event, an exclusive easement shall be deemed to exist and run to the Owner of the Encroaching Unit for the maintenance, use and enjoyment of the Encroaching Unit and all appurtenances thereto.

Section 3.7. Restricted Maintenance Easement. There is hereby reserved by the Declarant for the benefit of the Owner of any Lot an easement for the purpose of entering and encroaching upon an adjoining Lot as shown on the Plat. Said easement is reserved for the limited purpose of performing maintenance and repair work on the dwelling benefited by such easement, and for the encroachment, if any, of the roofs, gutters, overhangs or other improvements resulting from the original construction of the adjacent dwelling.

The owner of any dwelling built within three (3) feet of a sideyard property line shall have an express right of access and use, for the limited purposes described above, in the easement area as measured from sideyard property line.

Said easement area shall be five (5) feet as measured from said side-yard property line and as designated on the Plat. Any persons entering upon a Lot under the rights granted hereunder shall be responsible for repair of any damage resulting from the use of the area.

Section 3.8. Setback Lines. Front building setback lines are hereby established on this plat; no building shall be erected or maintained between the established setback lines and the property lines of the streets. No sideline setback restrictions apply to this cluster development as long as a minimum distance

of 10.0 feet is maintained between adjacent residences, except for grouping of five (5) or less detached single family units. A minimum of four (4) feet shall be required between detached units when in clusters of five (5) units or less. A minimum of ten (10) feet shall be maintained between groupings of detached single family units.

Section 3.9. Restricted Common Area. The area so designated on the Plat as Restricted Common Area shall be owned by the Association except said area shall be limited to the visual and aesthetic use and enjoyment of the Owners.

ARTICLE IV

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 4.1. Membership. Initially, to satisfy the requirements of the Indiana Not-for-Profit Corporation Act, the three (3) persons who serve as incorporators of the Association shall be the members (the "initial Members"). The Initial Members shall remain members of the Association until three (3) persons have become Class A or Class B members, at which time the Initial Members shall cease to be members unless they also qualify as Class A or Class B members. Every Owner of a Lot shall be a member of the Association. Apart from the Initial Members, membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot.

Section 4.2. Classes of Membership and Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant. Class A member shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be members; the vote for such Lot shall be exercised as the members holding an interest in such Lot determine among themselves, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B member shall be The Estridge Group, Inc., the Declarant. The Declarant shall be entitled to

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three (3) votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total number of votes outstanding in the Class A membership is equal to the total number of votes outstanding in the Class B membership; or
- (b) on January 1, 1990.

Section 4.3. Board of Directors. The Owners shall elect a Board of Directors of the Association as prescribed by the Association's Articles and By-Laws. The Board of Directors shall manage the affairs of the Association.

Section 4.4. Professional Management. No contract or agreement for professional management of the Association, nor any other contract between Declarant and the Association, shall be for a term in excess of three (3) years. Any such agreement or contract shall provide for termination by either party with or without cause without any termination fee by written notice of ninety (90) days or less.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot now or hereafter owned by it within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association: (1) Regular Assessments (for maintenance, repairs, and ordinary operating expenses); (2) Special Assessments for (a) capital improvements and operating deficits, as provided in Section 5.4, and (b) for special maintenance or repairs as provided in Section 7.2; and (3) any Insurance as provided in Section 9.4. Such assessments shall be established, shall commence upon such dates and shall be collected as hereinafter provided. All such assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the

property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Owner. Past due assessments shall run with the land and pass with title.

Section 5.2. Purpose of Regular Monthly Assessments. The Regular Monthly Assessments levied by the Association shall be used exclusively, in the reasonable discretion of the Board of Directors of the Association, for the promotion of the health, safety and welfare of the residents in the Property, for the improvement, maintenance, and repair of the Common Area, for the performance of the obligations and duties of the Association and for other purposes only as specifically provided herein. A portion of the Regular Monthly Assessments shall be set aside or otherwise allocated in a reserve fund for the purpose of providing repair and replacement of the Common Area and other capital improvements which the Association is required to maintain.

Section 5.3. Maximum Regular Monthly Assessments. (a) Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Regular Monthly Assessment on any Lot conveyed by Declarant shall be \$ 50.00 per Lot.

(b) From and after January 1 of such year, the maximum Regular Monthly Assessment may be increased each calendar year not more than 10% above the maximum Regular Monthly Assessment for the previous year without a vote of the membership.

(c) From and after January 1 of such year, the maximum Regular Monthly Assessment may not be increased each calendar year by more than 10% above the maximum Regular Monthly Assessment for the previous year, except with the approval of two-thirds (2/3) of those members of each class of members who cast votes in person or by proxy at a meeting duly called for this purpose.

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(d) The Board of Directors from time to time may fix the Regular Monthly Assessment, without any vote of the membership, at any amount not in excess of the maximum.

Section 5.4. Special Assessments for Capital Improvements and Operating Deficits. In addition to the Regular Monthly Assessments authorized above, the Association may Levy a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement which the Association is required to maintain, or to recover any operating deficits which the Association may from time to time incur, provided that any such assessment shall have the assent of two-thirds (2/3) of those members of each class of members who cast votes in person or by proxy at a meeting duly called for this purpose.

Section 5.5. Notice and Quorum for Any Action Authorized Under Section 5.3 and 5.4. Written notice of any meeting called for the purpose of taking any action authorized under Section 5.3 or 5.4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty per cent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5.6. Uniform Rate Assessment. Regular Monthly Assessments and Special Assessments for capital improvements and to recover operating deficits must be fixed at a uniform rate for all Lots.

Section 5.7. Date of Commencement of Assessments; Due Dates. The Regular Assessment provided for herein shall commence as to each Lot on the date of conveyance of such Lot by Declarant to be

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provided for the balance of that calendar quarter.

The provisions of this Section 5.7 notwithstanding, the owner shall pay on the day of conveyance in advance his or her share of the Regular Assessment for the balance of the calendar year in which the conveyance takes place.

The Regular Assessment against each lot shall be paid in advance in equal quarterly installments commencing on the first day of the first month of each fiscal year and quarterly thereafter through and including the first day of the last quarter of such fiscal year. Payment of the quarterly installments of the Regular Assessment shall be made to the Board of Directors of the Managing Agent, as directed by the Board of Directors; provided, however, Owners may elect to pay quarterly assessments semi-annually or annually, in advance. At the election and option of the Board, the Regular Assessment may be required to be paid by the Owners in advance in equal monthly installments rather than quarterly installments.

The Board of Directors shall fix any increase in the amount of such assessments at least thirty (30) days in advance of the effective date of such increase. Written notice of any increase in the Regular Assessment, and written notice of any Special Assessment and such other assessment notices as the Board of Directors shall deem appropriate, shall be sent to every Owner subject thereto. The due dates for all assessments, and the assessment and collection period (i.e., annual, monthly, lump sum or otherwise) for any Special Assessments, shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in recordable form signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. A properly executed certificate from the Association regarding the status of assessments for any lot shall be binding upon the Association as of the date of its issuance.

Section 5.8. Effect of Nonpayment of Assessments; Remedies of the Association. If any assessment (or periodic installment of such assessment, if applicable) is not paid on the due date

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established therefor pursuant to Section 5.7 hereof, then the entire unpaid assessment (together with interest thereon, costs and attorneys' fees as hereinafter provided and as provided in Section 5.1) shall become delinquent and shall constitute a continuing lien on the Lot to which such assessment relates, binding upon the then Owner, his or hers, devisees, successors and assigns. The personal obligation of the then Owner to pay such assessment, however, shall not pass to such Owner's successors in title unless expressly assumed by them. If any assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of twenty one per cent (21%) per annum and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property or both. In such event, there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action; and in the event a judgment is obtained such judgment shall include interest on the assessment as above provided, costs of the action and reasonable attorneys' fees to be fixed by the court. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 5.9. Subordination of the Lien to Mortgages; Sale or Transfer. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. The sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer. No sale or transfer of any Lot (whether voluntary or pursuant to foreclosure or otherwise) shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof; and, except as hereinabove provided, the sale or transfer of any Lot shall not affect the line of assessments

becoming due prior to the date of such sale or transfer except to the extent that a purchaser may be protected against the lien for prior assessments by a binding certificate from the Association, issued pursuant to Section 5.7, as to whether or not such assessments have been paid.

ARTICLE VI

USE RESTRICTIONS AND ARCHITECTURAL CONTROL

Section 6.1. Lot Use and Conveyance. All Lots shall be used exclusively for single-family residential purposes, except that Declarant, during the Development Period, reserves the rights provided herein respecting the Property generally. Except as herein provided, no Lot shall be subdivided to form units of less area. Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the covenants, conditions, and restrictions contained herein. The Owners, further, shall be subject to the following use restrictions:

(i) Obstructions. There shall be no obstruction of the Common Area and the Restricted Common Area, nor shall anything be kept or stored on any part of the Common Area and the Restricted Common Area without the prior written consent of the Association except construction materials and equipment during the construction period or except as specifically provided herein. Nothing shall be altered on, constructed on, or removed from the Common Area and the Restricted Common Area except upon the prior written consent of the Association.

(ii) Prohibition of Damage and Certain Activities. Nothing shall be done or kept on any Common Area or any Restricted Common Area or any part thereof which would increase the rate of insurance on the Common Area and the Restricted Common Area or any part thereof over what the Association, but for such activity, would pay, without the prior written consent of the Association. Nothing shall be done or kept on any Lot or in any single family residential

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dwelling on any Common Area and the Restricted Common Area or any part hereof, which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Area and the Restricted Common Area or any part thereof shall be committed by any Owner or any invitee or tenant of any Owner and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees or tenants, to the Association and other Owners. No noxious, destructive or offensive activity shall be allowed on any Lots or in the Common Area and the Restricted Common Area or any part thereof, nor shall anything be done thereon which may be or may become a nuisance to any other Owner or to any other person at any time lawfully residing on the Property; provided, however, that no act, conduct, activity or operation which Declarant is authorized or permitted to do hereunder shall ever be deemed to be noxious, destructive, offensive nor a nuisance for purposes of this Section.

(iii) Fences, Walls and Patios. No Owner shall relocate, heighten, lower or otherwise move or change any fence, wall, or patio upon the Property except with approval of the Association as provided herein.

(iv) No Unsightly Uses. No clothes, sheets, blankets or laundry of any kind or other articles shall be hung out on any portion of the Common Area and the Restricted Common Area, or on a Lot so as to be visible from outside the Lot. The Common Area and the Restricted Common Area shall be kept free and clean of all rubbish, debris and other unsightly materials.

(v) Animals. No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in or on any Lot on the Common Area or on the Restricted Common Area or any part hereof, except that household pets of mature

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size of not more than 24 inches may be kept on Lots, subject to rules and regulations adopted by the Board provided that they are not kept, bred, or maintained for any commercial purposes; provided, further, that any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Property subject to these restrictions upon three days' written notice from the Board, and provided, further, that upon written request of 25% of the voting power of the Association, the Board of Directors shall have the authority to and shall order the removal of, any pet.

(vi) Prohibited Structures. No structure of a temporary character, trailer, boat, camper-bus, basketball hoops, basement, tenant, storage tanks, or shack shall be maintained on any Lot nor shall any garage or other building except a permanent residence, be used on any Lot at any time as a residence or sleeping quarters, either temporarily or permanently.

(vii) Storage. Outside storage of any items, including but without limiting the generality of the foregoing, sporting equipment, toys, outdoor cooking equipment, yard and garden tools and equipment and trash and garbage containers, shall not be allowed unless screened from view by enclosures so as to be effectively screened from view outside the Lot. The design of such screened enclosure must be approved by the Association in accordance with the architectural control provisions thereof. The storage or collection of rubbish of any character whatsoever, any material that emits foul or obnoxious odors, the growing of any noxious or illegal weed or other natural substance, and the harboring of the source of any noise or activity which disturbs the peace, comfort, or serenity of residents is prohibited. Usual household trash and garbage shall be regularly collected and may be kept outside only if in sanitary containers which are so screened.

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Notwithstanding the foregoing, no boats, snowmobiles, recreational vehicles, trailers, camping vehicles, buses, mobile homes, tractor/trailers, trucks, motorcycles, mini bikes, unlicensed or inoperable vehicles, or any other vehicles of any description other than normal passenger automobiles shall at any time be stored or parked on any Lot outside of a garage, on any part of the Common Area, or on any part of the Restricted Common Area either permanently or temporarily.

(viii) Antennae. No exterior television or radio antennae of any kind, including discs, poles, masts or towers shall be placed, allowed or maintained upon any portion of the improvements or structures to be located upon the Property, or on the Property itself.

(ix) Electric Bug Killers. All exterior electric bug killers, "zappers" or similar devices are prohibited.

(x) Window Coverings. Owners of individual units shall install and maintain window coverings such as curtains and blinds such that the window coverings shall not be unsightly from the exterior.

(xi) Mailboxes. All mailboxes shall be of the same style and color.

(xii) Yard Lights. All yard lights shall be of the style and kind.

(xiii) Swimming Pools. No out-of-ground swimming pools shall be permitted to exist on any Lot.

(xiv) Utility Lines, Antennas, Geothermal Heat Pumps and Sump Pumps. All electrical service, telephone and other utility lines shall be placed underground, but this restriction may be waived in writing by Declarant. No geothermal heat pumps or sump pumps shall be permitted.

Section 6.2. Architectural Control. No building, fence, wall or other structure, except original construction of the single family residential dwelling by or on behalf of Declarant,

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shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein, be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by any architectural committee composed of three (3) or more representatives appointed by the Board. Any change in the appearance or the color of any part of the exterior of a residence shall be deemed to change thereto and shall require the approval therefor as above provided. In the event that written approval is not received as required hereunder within twenty one (21) days from the date requested, the failure to issue such written approval shall be construed as the disapproval of the request made.

Section 6.3. Non-Owner Occupants-Leasing of Lots. (a) All Lots occupied by persons other than the Owner or direct blood relations shall be subject to a written lease with the Owner meeting the following requirements:

(i) All leases shall be in writing, and no lease shall be entered into for a term of less than one (1) year without the prior approval of the Board of Directors.

(ii) All leases shall contain provisions adequate to require the lessee to comply with the provisions of this Declaration and the By-Laws of the Association, and with all rules and regulations promulgated by the Association from time to time, to the same extent as if the lessee were an Owner and a member of the Association; and shall provide for direct action by the Association against the lessee with or without joinder of the Owner, at the Association's option.

(iii) All leases shall make the lessee personally liable (jointly and severally with the Owner) for assessments levied by the Association during the term of the lease pursuant to the terms of this Declaration and the By-Laws, to the same extent if the Lessee were the Owner and a member of the

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Association, and shall expressly subordinate the lessee's interest to the lien of the assessments provided for in this Declaration. Provided, however, that a lessee may be protected against the lien for assessments due prior to the date of the lease by procuring a binding certificate from the Association, as provided in the By-Laws, as to whether or not such assessments have been paid.

(iv) No lease shall provide, or be interpreted or construed to provide, for a release of the Owner from his responsibility to the Association for compliance with the provisions of this Declaration, the By-Laws and any rules and regulations of the Association, or from the Owner's personal liability to the Association for assessments. This requirement shall not be construed to prohibit indemnity provisions as between the Owner and lessee.

(v) Leased premises shall contain no more than two (2) permanent occupants per bedroom.

(b) Any Owner desiring to enter into a lease for his Lot shall submit the form of the proposed lease to the Board of Directors (which form need not include the identity of the lessee or the rental amount) for review for compliance with the requirements of this Section 6.3 unless it determines by a majority vote of the Board that a waiver under the circumstances presented is in the best interests of the Association. The granting of any such waiver shall be a final determination, binding upon the Association, but the denial of a waiver may be reversed upon the affirmation in writing of a majority of the membership, or by a majority of the votes cast by those members present at a meeting called for the purpose. The Board of Directors may employ an attorney in connection with any such review, and a reasonable fee may be charged to the applicant to offset the expense so incurred. In the event the Board fails to approve or disapprove the lease within fifteen (15) days after submission by the applicant, the lease shall be deemed approved. A copy of each lease by an Owner shall be provided to the Board

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of Directors by the Owner within thirty (30) days after execution.

(c) Subject to any contrary provisions set forth in any lease of a Lot, each lease shall be deemed to transfer the lessee during the term of such lease all rights, privileges, obligations and limitations attendant to membership in the Association, including (except in the case of a lease by Declarant) an irrevocable proxy to exercise the Owner's voting rights appurtenant to the leased Lot in all elections and on all issues presented for a vote of the members, except any vote upon: (i) an amendment to the Declaration, the Articles or the By-Laws; (ii) annexation of additional property; (iii) a Special Assessment for a capital improvement pursuant to Section 5.4; or (iv) mortgage or dedication of all or any portion of the Common Area pursuant to Section 31.1 or Section 3.2.

(d) The provisions of paragraphs (a) and (c) of this Section 6.3 shall apply to a lease by Declarant, except that Declarant may lease Lots owned by it for a term of less than two (2) years, and Declarant shall be deemed for all purposes to retain all voting rights in the Association appurtenant to all Lots owned by it, notwithstanding any lease or any inconsistent provisions contained in any lease. Declarant shall not be required to submit any lease or leases to the Board of Directors for review as to form.

(e) This Section 6.3 shall apply to the holder of any first mortgage who acquired ownership or possession of any Lot by reason of a foreclosure or conveyance in lieu thereof, or during the pendency of a foreclosure proceeding.

(f) Any lease or attempted lease of a Lot in violation of the provisions of this Section 6.3 shall be voidable at the election of the Association or any other party having the right to enforce the provisions of this Declaration, except that neither party to such lease may assert this provision of this Section 6.3 to avoid its obligations thereunder.

Section 6.4. Signs. No sign of any kind (other than

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designations in such styles and materials as the Association shall by rule or regulation approve, of street addresses and names of occupants) shall be displayed to the public view on any Lot, except that a "For Sale" sign may be displayed provided that it is in such form as the Board may require, and except that Declarant shall be permitted to erect and maintain upon the Property such signs as it deems appropriate to advertise the development during the construction and sale periods.

Section 6.5. Home Occupations. No home occupation shall be conducted or maintained on any Lot other than one which is incidental to a business, profession or occupation of the Owner or occupant of any such Lot, and which is generally or regularly conducted in another location away from such Lot.

Section 6.6. Rules and Regulations. The Board of Directors from time to time may promulgate further rules and regulations concerning the use of Lots of the Common Area and the Restricted Common Area. A majority of those Owners voting at a meeting called for the purpose may rescind or modify any rule or regulation adopted by the Board of Directors. Copies of rules and regulations shall be furnished by the Board to the Owners prior to the time when the same shall be effective.

Section 6.7. Development and Sale Period. Nothing contained in this Article VI shall be construed or interpreted to restrict the activities of Declarant in connection with the development of the Property and sale of Lots. During the Development Period, Declarant shall be entitled to engage in such activities and to construct, install, erect and maintain such facilities, upon any portion of the Property at any time owned or leased by Declarant, as in the sole opinion of Declarant may be reasonably required, or convenient or incidental to, the development of the Property and sale of the Lots; such facilities may include, without limitation, storage areas, signs, parking areas, model residences, construction offices, sales offices and business offices.

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ARTICLE VII

MAINTENANCE

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Section 7.1. Maintenance of Owners. (a) The Owner of each Lot shall furnish and be responsible for at his or her own expense all the maintenance and repair of such Owner's residence and the maintenance of such Owner's Lot including but not limited to the replacement of plantings provided by Declarant and located within Owner's Lot.

Section 7.2. Maintenance Obligations of Association with Respect to Common Area. (a) The exclusive management and control of the Common Area and the Restricted Common Area shall be vested with the Association who shall keep the same in a good, clean and attractive manner, order and repair. Such responsibility to the extent the same is not otherwise herein declared or stated to be the obligation or responsibility of Owners of Lots, shall include but not be limited to the following: the maintenance and repair of the Common Area and the Restricted Common Area, the streets, parking areas, and all other improvements or material located within or used in connection with the Common Area and the Restricted Area. Without limiting the generality of the foregoing, if a retention facility is installed as part of the storm and surface water drainage system of the Property, such water retention facility shall be a part of the Common Area to be operated, managed, controlled, repaired and maintained by the Association. Under no circumstances shall any obligation for the maintenance of any water retention facility be imposed upon, or implied as an obligation of, any governmental agency, unless such obligation is specifically and expressly assumed or accepted by any such governmental agency. As part of its management and control of the Common Area, the Association shall snow plow the streets.

(b) The Association shall maintain and/or replace the plantings provided by the Declarant from time to time as it is reasonably required within the Common Area and the Restricted Common Area.

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Section 7.3. Owner's Obligations With Respect to Common Area. The foregoing provisions of Section 7.2(b) notwithstanding, the Owner of each Lot shall furnish and be responsible for at his or her own expense, all the maintenance and repair of that portion of the Common Area located between the side lot lines and extending from the front Lot line and running to the back of the nearest street curb, such obligation to include but not be limited to sidewalks, driveways, and all other materials and improvements located within such defined area.

Section 7.4. Retaining Wall and Fence. There is hereby reserved by the Declarant for the benefit of the Declarant and the Association an easement on and over a strip of ground six (6) feet by parallel lines off of the south property line of Lots 24 through 31 inclusive for the location of a Retaining Wall and Fence as originally constructed by Declarant. The exclusive management and control of the Retaining Wall and Fence shall be vested with the Association who shall keep the same in a good, clean and attractive manner, order and repair.

ARTICLE VIII

INSURANCE

Section 8.1. Liability Insurance. The Association shall purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall cover the Association or Board of Directors, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Association, all Owners and all other persons entitled to occupy a Lot.

Section 8.2. Miscellaneous Insurance Provisions. The Association shall also obtain any other insurance required by law to be maintained, including but not limited to workman's compensation insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate. Such insurance coverage shall also provide for and

cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Association, its Board of Directors and any managing agent acting on behalf of the Association. Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under policies purchased by the Association.

Section 8.3. Payment of Insurance. The premiums for the insurance described above shall be paid by the Association.

Section 8.4. Additional Insurance. Each Owner shall be solely responsible for and obtain casualty insurance and such additional insurance as he deems necessary or desirable at his own expense affording coverage upon his real and personal property.

ARTICLE IX

GENERAL PROVISIONS

Section 9.1. Right of Enforcement. In the event of a violation, or threatened violation, of any of the covenants, conditions and restrictions herein enumerated, Declarant, the Association, or any Owner and all parties claiming under them shall have the right to enforce the covenants, conditions, and restrictions contained herein, and to pursue any and all remedies, at law, or in equity, available under applicable Indiana law, with or without proving any actual damages, including the right to secure injunctive relief or secure removal by due process of any structure not in compliance with the covenants, conditions and restrictions contained herein, and shall be entitled to recover reasonable attorneys' fees and the costs and expenses incurred as a result thereof.

Section 9.2. Severability. Invalidation of any one of the covenants, restrictions or provisions contained in this Declaration by judgment or court order shall not in any way affect any of the other provisions hereof, which shall remain in full force and effect.

Section 9.3. Amendment. During the first twenty (20) years following its recordation, this Declaration may be amended or

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modified at any time by an instrument recorded in the Office of the Recorder of Hamilton County, Indiana, approved and signed by at least seventy five per cent (75%) of the then Owners, and thereafter by an instrument signed by at least two thirds (2/3) of the then Owners. Provided, however, that none of the rights or duties of Declarant reserved or set out hereunder may be amended or changed without Declarant's prior written approval. This Declaration may also be amended by Declarant, if it has an ownership interest in the Property, at any time within three (3) years after the recordation hereof, except that Declaration shall not affect any of the following changes without the approval of two thirds (2/3) of the first mortgages of the Lots (based upon one (1) vote for each mortgage) and two thirds (2/3) of the Owners of Lots (excluding Declarant):

- (a) the abandonment, partition, subdivision, encumbrance, sale, or transfer (other than to the Association) of any Common Area (other than the granting or altering of utility and drainage easements).

The covenants, restrictions and all other provisions of this Declaration shall run with the land and shall be binding upon all persons claiming under them for a period of twenty (20) years from the date of recordation, and thereafter shall automatically extend for successive periods of ten (10) years each unless prior to the expiration of any such ten (10) year period this Declaration is amended or changed in whole or in part as hereinabove provided.

Section 9.4. Mortgagee Rights. In addition to any other rights provided elsewhere in this Declaration to mortgagees, any lender or lenders holding a first mortgage or first mortgages upon any Lot or Lots, jointly or singly, may pay any real estate taxes or other taxes or charges or lien against any Common or Limited Common Area or any property owned by the Association; and may pay any overdue premiums on any hazard, casualty, liability or other insurance policies or secure new insurance coverage on the lapse of any policies for any such property owned by the

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Association or covering any property for which the Association has an obligation to maintain insurance coverage. Any such lender or lenders making payments in accordance with this Section 9.5 shall be entitled to immediate reimbursement therefor from the Association along with any costs incurred, including reasonable attorneys' fees.

Section 9.5. Notice to Mortgagees. The Association, upon request, shall provide to any lender holding a first mortgage upon any Lot, a written certificate or notice specifying unpaid assessments and other defaults of the Owner of such Lot, if any, in the performance of such Owner's obligations under this Declaration, the Articles of Incorporation of the Association, its By-Laws or any other applicable documents, which default has not been cured within sixty (60) days. A reasonable charge may be made by the Association for the issuance of any such certificate or notice, and any such certificate properly executed by an officer of the Association shall be binding upon the Association, as provided herein.

IN WITNESS WHEREOF, The Estridge Group, Inc., an Indiana corporation, has caused this Declaration to be executed as of the date first written above.

THE ESTRIDGE GROUP, INC.

BY PAUL E. ESTRIDGE JR.
[Signature]
VICE PRESIDENT

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STATE OF INDIANA)
COUNTY OF HAMILTON)

SS:

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Before me, a Notary Public, in and for said county and state, personally appeared Paul C. Estridge, Jr. of The Estridge Group, Inc., who having been first duly sworn, acknowledged the execution of the foregoing Declaration for and on behalf of said partnership.

WITNESS my hand and seal this 26th day of June, 1985.

Sandra Russell Kerns
Notary Public
County of Residence: Hamilton
SANDRA RUSSELL KERNS

My Commission Expires:

5-23-88

This instrument was prepared by James J. Nelson, NELSON & FRANKENBERGER, P.C., 3021 E. 98th Street, Suite 220, Indianapolis, Indiana, 46280.

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① Covenants, conditions and restrictions contained in the plat of Waterford dated June 3, 1985, and recorded July 8, 1985 in Plat Book 12 page 11, relating to use. NB
Responsibilities and Limitations set out in "The Subdivider Agreement" portion of the plat of the subdivision, relating to drainage and water problems. NB
Violation thereof will not cause forfeiture or reversion of title.

② Surveyors certificate of correction recorded December 14, 1985 in Miscellaneous Record 185 page 564 as Instrument #8519085 (Regarding Lots 1-23)

③ Possible Municipal Assessments levied by the City of Carmel, Indiana. NB

④ Annual maintenance assessment for the Moffet Williamson Drain in the amount of \$6.00 paid for 1986 and all future assessments not yet due and payable. Duplicate ~~1987~~.

⑤ Declaration of Covenants, Conditions and Restrictions of Waterford dated June 28, 1985, and recorded July 2, 1985 in Miscellaneous Record 183 page 553 as Instrument Number 85-9088.

⑥ Liens for assessment as provided for under Article 5 of the Declaration of Covenants, Conditions and Restrictions of Waterford which provides that assessments made under its provisions are a lien on the land insured and such lien is subordinate to any mortgage lien on the land.

⑦ Upon a conveyance or mortgage of the premises we should be furnished a certificate signed by the President or Secretary of the Waterford Property Owners Association stating there are no unpaid assessments which constitute a lien on the subject premises.

⑧ 9. NOTE: The liability of Lawyer Title Insurance Corporation under this commitment is hereby extended for a period of 18 months from the date of issuance thereof.

⑨ 10. NOTE: Pending disbursement of the full proceeds of the loan secured by the mortgage insured herein, this policy insures only the amount actually disbursed, but as the proceeds of such loan are disbursed in good faith, the amount of insurance under this policy shall increase to the extent of such disbursement up to the amount stated in Schedule A but neither the date nor any other parts of this policy shall be deemed changed by virtue of such disbursement.

Judgment search has been made versus _____ and none found. NB

Judgment search has been made versus _____ and none found. NB

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Judgment search has been made versus _____ and none found. NB

Judgment search has been made versus _____ and none found.